

thority expires in an agency pursuant to a test shall remain in effect, in accordance with the terms of the contract, the notwithstanding of expiration the authority to conduct the test under this section.

“(k) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the tests conducted pursuant to subsection (a).”

§ 414. Chief Acquisition Officers and senior procurement executives

(a) Establishment of agency Chief Acquisition Officers

(1)¹ The head of each executive agency described in section 901(b)(1) (other than the Department of Defense) or section 901(b)(2)(C) of title 31 with a Chief Financial Officer appointed or designated under section 901(a) of such title shall appoint or designate a non-career employee as Chief Acquisition Officer for the agency, who shall—

(A) have acquisition management as that official's primary duty; and

(B) advise and assist the head of the executive agency and other agency officials to ensure that the mission of the executive agency is achieved through the management of the agency's acquisition activities.

(b) Authority and functions of agency Chief Acquisition Officers

The functions of each Chief Acquisition Officer shall include—

(1) monitoring the performance of acquisition activities and acquisition programs of the executive agency, evaluating the performance of those programs on the basis of applicable performance measurements, and advising the head of the executive agency regarding the appropriate business strategy to achieve the mission of the executive agency;

(2) increasing the use of full and open competition in the acquisition of property and services by the executive agency by establishing policies, procedures, and practices that ensure that the executive agency receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government's requirements (including performance and delivery schedules) at the lowest cost or best value considering the nature of the property or service procured;

(3) increasing appropriate use of performance-based contracting and performance specifications;

(4) making acquisition decisions consistent with all applicable laws and establishing clear lines of authority, accountability, and responsibility for acquisition decisionmaking within the executive agency;

(5) managing the direction of acquisition policy for the executive agency, including implementation of the unique acquisition policies, regulations, and standards of the executive agency;

(6) developing and maintaining an acquisition career management program in the executive agency to ensure that there is an adequate professional workforce; and

(7) as part of the strategic planning and performance evaluation process required under section 306 of title 5 and sections 1105(a)(28), 1115, 1116, and 9703 of title 31—

(A) assessing the requirements established for agency personnel regarding knowledge and skill in acquisition resources management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

(B) in order to rectify any deficiency in meeting such requirements, developing strategies and specific plans for hiring, training, and professional development; and

(C) reporting to the head of the executive agency on the progress made in improving acquisition management capability.

(c) Senior procurement executive

(1) The head of each executive agency shall designate a senior procurement executive who shall be responsible for management direction of the procurement system of the executive agency, including implementation of the unique procurement policies, regulations, and standards of the executive agency.

(2) In the case of an executive agency for which a Chief Acquisition Officer has been appointed or designated under subsection (a) of this section, the head of such executive agency shall either—

(A) designate the Chief Acquisition Officer as the senior procurement executive for the executive agency; or

(B) ensure that the senior procurement executive designated for the executive agency under paragraph (1) reports directly to the Chief Acquisition Officer without intervening authority.

(Pub. L. 93-400, § 16, as added Pub. L. 98-191, § 7, Dec. 1, 1983, 97 Stat. 1330; amended Pub. L. 98-369, div. B, title VII, § 2732(b)(2), July 18, 1984, 98 Stat. 1199; Pub. L. 108-136, div. A, title XIV, § 1421(a)(1), Nov. 24, 2003, 117 Stat. 1666.)

AMENDMENTS

2003—Pub. L. 108-136 amended section generally. Prior to amendment, section related to executive agency responsibilities.

1984—Par. (1). Pub. L. 98-369 substituted “increase the use of full and open competition in the procurement of property or services by the executive agency by establishing policies, procedures, and practices that assure that the executive agency receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government's requirements (including performance and delivery schedules) at the lowest reasonable cost considering the nature of the property or service procured;” for “increase the use of effective competition in procurement by the executive agency;”.

§ 414a. Personnel evaluation

The head of each executive agency that is subject to the provisions of title III of the Federal Property and Administrative Services Act of 1949 [41 U.S.C. 251 et seq.] shall ensure, with respect to the employees of that agency whose primary duties and responsibilities pertain to the award of contracts subject to the provisions of this Act, that the performance appraisal system

¹ So in original. No par. (2) has been enacted.

applicable to such employees affords appropriate recognition to, among other factors, efforts—

(1) to increase competition and achieve cost savings through the elimination of procedures that unnecessarily inhibit full and open competition;

(2) to further the purposes of the Small Business and Federal Procurement Competition Enhancement Act of 1984 and the Defense Procurement Reform Act of 1984; and

(3) to further such other objectives and purposes of the Federal acquisition system as may be authorized by law.

(Pub. L. 98-577, title V, §502, Oct. 30, 1984, 98 Stat. 3085.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in provision preceding par. (1), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title III of the Act is classified generally to subchapter IV (§251 et seq.) of chapter 4 of this title. For complete classification of this Act to the Code, see Tables.

This Act and the Small Business and Federal Procurement Competition Enhancement Act of 1984, referred to in provision preceding par. (1) and par. (2), is Pub. L. 98-577, Oct. 30, 1984, 98 Stat. 3066. For complete classification of this Act to the Code, see Short Title note set out under section 251 of this title and Tables.

The Defense Procurement Reform Act of 1984, referred to in par. (2), is Pub. L. 98-525, title XII, Oct. 19, 1984, 98 Stat. 2588. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 2302 of Title 10, Armed Forces, and Tables.

CODIFICATION

Section was enacted as part of the Small Business and Federal Procurement Competition Enhancement Act of 1984, and not as part of the Office of Federal Procurement Policy Act which comprises this chapter.

§ 414b. Chief Acquisition Officers Council

(a) Establishment

There is established in the executive branch a Chief Acquisition Officers Council.

(b) Membership

The members of the Council shall be as follows:

(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as Chairman of the Council.

(2) The Administrator for Federal Procurement Policy.

(3) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(4) The chief acquisition officer of each executive agency that is required to have a chief acquisition officer under section 414 of this title and the senior procurement executive of each military department.

(5) Any other senior agency officer of each executive agency, appointed by the head of the agency in consultation with the Chairman, who can effectively assist the Council in performing the functions set forth in subsection (e) of this section and supporting the associated range of acquisition activities.

(c) Leadership; support

(1) The Administrator for Federal Procurement Policy shall lead the activities of the

Council on behalf of the Deputy Director for Management.

(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

(3) The Administrator of General Services shall provide administrative and other support for the Council.

(d) Principal forum

The Council is designated the principal inter-agency forum for monitoring and improving the Federal acquisition system.

(e) Functions

The Council shall perform functions that include the following:

(1) Develop recommendations for the Director of the Office of Management and Budget on Federal acquisition policies and requirements.

(2) Share experiences, ideas, best practices, and innovative approaches related to Federal acquisition.

(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Federal acquisition.

(4) Promote effective business practices that ensure the timely delivery of best value products to the Federal Government and achieve appropriate public policy objectives.

(5) Further integrity, fairness, competition, openness, and efficiency in the Federal acquisition system.

(6) Work with the Office of Personnel Management to assess and address the hiring, training, and professional development needs of the Federal Government related to acquisition.

(7) Work with the Administrator and the Federal Acquisition Regulatory Council to promote the business practices referred to in paragraph (4) and other results of the functions carried out under this subsection.

(Pub. L. 93-400, §16A, as added Pub. L. 108-136, div. A, title XIV, §1422(a), Nov. 24, 2003, 117 Stat. 1668.)

§ 415. Repealed. Pub. L. 103-355, title VI, § 6003, Oct. 13, 1994, 108 Stat. 3364

Section, Pub. L. 93-400, §17, as added Pub. L. 98-191, §7, Dec. 1, 1983, 97 Stat. 1330, directed Administrator to conduct studies and issue report by Apr. 1, 1984, to Congressional committees on extent of competition in award of subcontracts by Federal prime contractors.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of this title.

§ 416. Procurement notice

(a) Covered executive agency activities; publication of notice; time limitations

(1) Except as provided in subsection (c) of this section—

(A) an executive agency intending to—

(i) solicit bids or proposals for a contract for property or services for a price expected to exceed \$25,000; or